

REMARKS**I. Introduction**

In response to the Office Action dated August 18, 2008, Applicants have amended claim 8 to be in independent form by incorporating the features of claim 7. Claims 6 and 7 have been cancelled without prejudice. Care has been taken to avoid the introduction of new matter. In view of the foregoing amendments and the following remarks, Applicants respectfully submit that all pending claims are in condition for allowance.

II. Claim Rejection Under 35 U.S.C. § 103

Claims 6 – 10 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sven Erik Mattsson, “on Modeling of Heat Exchangers in Modelica”, hereafter Mattson, in view of Judge et al. “A Heat Exchanger Model for Mixtures and Pure Refrigerant Cycle Simulations” hereafter referred to as Judge. Applicants traverse these rejections for at least the following reasons.

Applicants first note that the Office Action summarily rejects claims 8 and 9 without any specific reference to those portions of the cited references considered to read on each claim feature. Applicants would like to remind the Examiner that the “goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” *MPEP* § 706. Moreover, when “a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained” 37 *C.F.R. 1.104(c)(2)*. Applicants request that any future rejections clearly articulate how the

Examiner as applied the reference to each claim feature by referring specifically to those portions of the cited references thought to read on the claims.

Claim 8 recites, among other things, a computer-implemented method for using a computer system to configure a simulation program executable by a computer processor for computing amounts of heat exchanged comprising composing a heat exchanger class by combining individual cells in a cell class. Claim 9 includes similar features. As described on page 13 of the pending application, a configuration such that characteristics are set on a cell-by-cell basis enables highly reusable programs to be created. None of the cited references, alone or in combination with each other, disclose or suggest at least these claim features.

The Examiner has once again summarily rejected claims 8 and 9 by simply referring to claim 6 and stating that it would have been obvious to incorporate the heat exchanger, tube, fin, and refrigerant classes of Judge with Mattsson because “these are parts of the well known heat exchanger.” However, whether these components are known or not is irrelevant as **the combination of Judge and Mattsson does not disclose or suggest the specific configuration described in the claims.**

Applicants raised these concerns in response to the previous Office Action. However, the Examiner has still failed to set forth a *prima facie* case of obviousness by explaining how the references disclose each and every claim limitation and why it would be obvious to combine the references, nor has the Examiner addressed this argument. Claim 8, for example, specifically includes a feature of “composing the heat exchanger class by combining individual cells in a cell class.” Judge and Mattsson fail to disclose or suggest at least this feature. In fact, the Examiner has provided no suggestions as to how this claim element is being read on the cited references.

Thus, if the Examiner wishes to retain the rejection of these claims, Applicants respectfully request that the Examiner make a *prima facie* showing of obviousness, as is required, which clearly explains how the Examiner reads every claimed feature on the cited references.

Claim 10 depends from one of claims 8 or 9. Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Harness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as independent claims 8 and 9 are patentable for at least the reasons set forth above, it is respectfully submitted that all dependent claims are also in condition for allowance. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination

III. Conclusion

In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

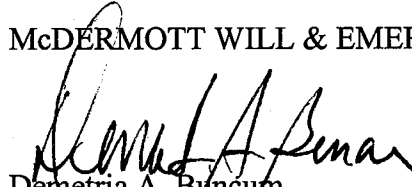
To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink, appearing to read "Demetria A. Buncum", is written over the printed name.

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